

### Remarks

Reconsideration and reversal of the rejections expressed in the Office Action of December 1, 2006 are respectfully contended in view of the following remarks and the application as amended. The present invention generally relates to a method of inhibiting coal oxidation in a coal pile which includes coating all the surfaces of coal exposed to air with an oxidation inhibiting amount of a composition comprising (a) a water soluble cationic polymer and (b) a wetting agent selected from an anionic or nonionic surfactant, or mixtures thereof.

Claims 1-5 were rejected under 35 U.S.C. §102(b) as being anticipated by Roe, U.S. Patent No. 5,576,056; claims 6, 7 and 9 were rejected under 35 U.S.C. §103(a) as being unpatentable over Roe et al. in view of Zinkan; and claim 8 was rejected under 35 U.S.C. §103(a) as being unpatentable over Roe in view of JP 2000-096040. The claims as clarified overcome these rejections.

Specifically, the Examiner's attention is directed to the attached Declaration under 37 C.F.R. §1.132 by a co-inventor of the present invention. As stated in the Declaration, in the cited relevant prior art, the compounds and compositions are applied to coal that has already been mined, i.e. excavated and removed from the mine area, and then processed, transported and stockpiled at a utility coal yard or a coal transport facility.

Applicants respectfully contend that it would be apparent to one skilled in this technological area that any compound or composition applied as a foam or a spray would not be effective in penetrating the interstices of a coal pile, whether deliberately made, such as a stockpile, or formed at the foot of a high wall due to weathering and sloughing of the exposed coal bed (see, e.g., WY State Geological Survey: Coal Report CR 01-1, pages 3-4).

As further stated in the Declaration, Roe et al. refers to large coal handling facilities and coal fueled power plants (see, e.g., column 1, lines 30-48 of reference). To one skilled in the art, the pit area of an active mine would not be considered to be a coal handling facility. Thus, prima facie obviousness is not established.

For all of the above reasons, it is respectfully contended that the solicited claims define patentable subject matter. Reconsideration and reversal of the rejections expressed in the Office

Appl. No. 10/765,039  
Reply to Office Action of December 1, 2006

Action of December 1, 2006 are respectfully submitted. The Examiner is invited to call the undersigned if any questions arise during the course of reconsideration of this matter.

Respectfully submitted,

Date: 5/1/07

Richard A. Paikoff

Richard A. Paikoff  
Reg. No. 34,892  
Duane Morris LLP  
30 South 17<sup>th</sup> Street  
Philadelphia, PA 19103-4196  
tel. 215-979-1853

DM2\1085511.2